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FEBRUARY 14, 2007

Testimony SB 326

Chairman Weinberg and Members of the Committee,

PUBLIC HEALTH, WELFARE & SAFETY
Exhibit No. 1
Date 2-14-07
Bill No. SB 326

For the record, my name is Scott Crichton. I serve as Executive Director for the American Civil Liberties Union of Montana. We are a growing membership organization comprised of more than 2,500 Montana households concerned with defending the Constitution and the Bill of Rights.

I am here today to voice concerns over SB ~~326~~ as written. The federal Health Information Portability and Access Act, or HIPPA, ushered in a new era on how we must deal with issues relating to privacy and medical records in this digital information age.

While we have heard the good intentions behind this proposed legislation from the sponsor, as a privacy advocate I am concerned about potential unintended consequences or possible abuse of this data base.

We are assured in section 3 of the bill that the database is confidential and may be made available "only" to 9 enumerated and distinct entities, including all levels of law enforcement and "a court of competent jurisdiction through a lawful order."

Section 4 assures us that "The data base information may not be used as evidence in a criminal or civil proceeding." However, it seems possible if not probable, that law enforcement could search this database, without any particularized suspicion, to identify potential targets for subsequent investigation. So while this database itself may not be used as evidence, it could be manipulated by law enforcement to be used as a pretext for initiating other inquiries. I would urge you to consider an amendment requiring a search warrant for law enforcement to access the database with a finite and limited scope to make law enforcement's access less problematic.

ACLU would urge your due diligence to consider the many ramifications of creating yet another government database with highly sensitive and private information.